

AMENDED IN SENATE MAY 5, 2009

SENATE BILL

No. 389

Introduced by Senator Negrete McLeod

February 26, 2009

An act to amend Section 144 of, and to add Sections 144.5 and 144.6 to, the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 389, as amended, Negrete McLeod. Professions and vocations.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes a board to suspend or revoke a license on various grounds, including, but not limited to, conviction of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. Existing law requires applicants to certain boards to provide a full set of fingerprints for the purpose of conducting criminal history record checks.

This bill would make that fingerprinting requirement applicable to the Dental Board of California, the Dental Hygiene Committee of California, the Professional—~~Fiduciary~~ *Fiduciaries* Bureau, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the State Board of Chiropractic Examiners. The bill would require applicants for a license and, commencing January 1, 2011, licensees who have not previously submitted fingerprints, or for whom a record of the submission of fingerprints no longer exists, to successfully complete a state and federal level criminal offender record information search, as specified. The bill would require licensees

to certify compliance with that requirement, as specified, and would subject a licensee to disciplinary action for making a false certification. The bill would also require a licensee to, as a condition of renewal of the license, notify the board on the license renewal form if he or she has been convicted, as defined, of a felony or misdemeanor since his or her last renewal, or if this is the licensee's first renewal, since the initial license was issued.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 144 of the Business and Professions Code
2 is amended to read:
3 144. (a) Notwithstanding any other provision of law, an agency
4 designated in subdivision (b) shall require an applicant for a license
5 to furnish to the agency a full set of fingerprints for purposes of
6 conducting criminal history record checks and shall require the
7 applicant to successfully complete a state and federal level criminal
8 offender record information search conducted through the
9 Department of Justice as provided in subdivision (c) or as otherwise
10 provided in this code.
11 (b) Subdivision (a) applies to the following:
12 (1) California Board of Accountancy.
13 (2) State Athletic Commission.
14 (3) Board of Behavioral Sciences.
15 (4) Court Reporters Board of California.
16 (5) State Board of Guide Dogs for the Blind.
17 (6) California State Board of Pharmacy.
18 (7) Board of Registered Nursing.
19 (8) Veterinary Medical Board.
20 (9) Registered Veterinary Technician Committee.
21 (10) Board of Vocational Nursing and Psychiatric Technicians.
22 (11) Respiratory Care Board of California.
23 (12) Hearing Aid Dispensers Bureau.
24 (13) Physical Therapy Board of California.
25 (14) Physician Assistant Committee of the Medical Board of
26 California.
27 (15) Speech-Language Pathology and Audiology Board.
28 (16) Medical Board of California.

- 1 (17) State Board of Optometry.
- 2 (18) Acupuncture Board.
- 3 (19) Cemetery and Funeral Bureau.
- 4 (20) Bureau of Security and Investigative Services.
- 5 (21) Division of Investigation.
- 6 (22) Board of Psychology.
- 7 (23) California Board of Occupational Therapy.
- 8 (24) Structural Pest Control Board.
- 9 (25) Contractors' State License Board.
- 10 (26) Bureau of Naturopathic Medicine.
- 11 (27) Dental Board of California.
- 12 (28) Dental Hygiene Committee of California.
- 13 ~~(27)~~
- 14 (29) Professional Fiduciaries Bureau.
- 15 ~~(28)~~
- 16 (30) California Board of Podiatric Medicine.
- 17 ~~(29)~~
- 18 (31) Osteopathic Medical Board of California.
- 19 ~~(30)~~
- 20 (32) State Board of Chiropractic Examiners.

21 (c) Except as otherwise provided in this code, each agency listed
 22 in subdivision (b) shall direct applicants for a license to submit to
 23 the Department of Justice fingerprint images and related
 24 information required by the Department of Justice for the purpose
 25 of obtaining information as to the existence and content of a ~~state~~
 26 ~~or federal criminal record~~ *record of state or federal convictions*
 27 *and state or federal arrests and also information as to the existence*
 28 *and content of a record of state or federal arrests for which the*
 29 *Department of Justice establishes that the person is free on bail*
 30 *or on his or her recognizance pending trial or appeal.* The
 31 Department of Justice shall forward the fingerprint images and
 32 related information received to the Federal Bureau of Investigation
 33 and request federal criminal history information. The Department
 34 of Justice shall compile and disseminate state and federal responses
 35 to the agency pursuant to subdivision (p) of Section 11105 of the
 36 Penal Code. The agency shall request from the Department of
 37 Justice subsequent arrest notification service, pursuant to Section
 38 11105.2 of the Penal Code, for each person who submitted
 39 information pursuant to this subdivision. The Department of Justice

1 shall charge a fee sufficient to cover the cost of processing the
2 request described in this section.

3 SEC. 2. Section 144.5 is added to the Business and Professions
4 Code, to read:

5 144.5. (a) Notwithstanding any other provision of law, an
6 agency designated in subdivision (b) of Section 144 shall require
7 a licensee who has not previously submitted fingerprints or for
8 whom a record of the submission of fingerprints no longer exists
9 to, as a condition of license renewal, successfully complete a state
10 and federal level criminal offender record information search
11 conducted through the Department of Justice as provided in
12 subdivision (d).

13 (b) (1) A licensee described in subdivision (a) shall, as a
14 condition of license renewal, certify on the renewal application
15 that he or she has successfully completed a state and federal level
16 criminal offender record information search pursuant to subdivision
17 (d).

18 (2) The licensee shall retain for at least three years, as evidence
19 of the certification made pursuant to paragraph (1), either a receipt
20 showing that he or she has electronically transmitted his or her
21 fingerprint images to the Department of Justice or, for those
22 licensees who did not use an electronic fingerprinting system, a
23 receipt evidencing that the licensee's fingerprints were taken.

24 (c) Failure to provide the certification required by subdivision
25 (b) renders an application for renewal incomplete. An agency shall
26 not renew the license until a complete application is submitted.

27 (d) Each agency listed in subdivision (b) of Section 144 shall
28 direct licensees described in subdivision (a) to submit to the
29 Department of Justice fingerprint images and related information
30 required by the Department of Justice for the purpose of obtaining
31 information as to the existence and content of a ~~state or federal~~
32 ~~criminal record~~ *record of state or federal convictions and state or*
33 *federal arrests and also information as to the existence and content*
34 *of a record of state or federal arrests for which the Department*
35 *of Justice establishes that the person is free on bail or on his or*
36 *her recognizance pending trial or appeal.* The Department of
37 Justice shall forward the fingerprint images and related information
38 received to the Federal Bureau of Investigation and request federal
39 criminal history information. The Department of Justice shall
40 compile and disseminate state and federal responses to the agency

1 pursuant to subdivision (p) of Section 11105 of the Penal Code.
2 The agency shall request from the Department of Justice
3 subsequent arrest notification service, pursuant to Section 11105.2
4 of the Penal Code, for each person who submitted information
5 pursuant to this subdivision. The Department of Justice shall charge
6 a fee sufficient to cover the cost of processing the request described
7 in this section.

8 (e) An agency may waive the requirements of this section if the
9 license is inactive or retired, or if the licensee is actively serving
10 in the military. The agency may not activate an inactive license or
11 return a retired license to full licensure status for a licensee
12 described in subdivision (a) until the licensee has successfully
13 completed a state and federal level criminal offender record
14 information search pursuant to subdivision (d).

15 (f) With respect to licensees that are business entities, each
16 agency listed in subdivision (b) of Section 144 shall, by regulation,
17 determine which owners, officers, directors, shareholders,
18 members, agents, employees, or other natural persons who are
19 representatives of the business entity are required to submit
20 fingerprint images to the Department of Justice and disclose the
21 information on its renewal forms, as required by this section.

22 (g) A licensee who falsely certifies completion of a state and
23 federal level criminal record information search under subdivision
24 (b) may be subject to disciplinary action by his or her licensing
25 agency.

26 (h) This section shall become operative on January 1, 2011.

27 SEC. 3. Section 144.6 is added to the Business and Professions
28 Code, to read:

29 144.6. (a) An agency described in subdivision (b) of Section
30 144 shall require a licensee, as a condition of license renewal, to
31 notify the board on the license renewal form if he or she has been
32 convicted, as defined in Section 490, of a felony or misdemeanor
33 since his or her last renewal, or if this is the licensee's first renewal,
34 since the initial license was issued.

35 (b) The reporting requirement imposed under this section shall
36 apply in addition to any other reporting requirement imposed under
37 this code.

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